IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.7256 OF 2004

M/s N.V.Kharote Engineers
and Contractors, .. Petitioner

Vs

1. Bank of Maharashtra, .. Respondent

Mr S.J.Rairkar, for the petitioner.

Mr Anil Menon, for respondent no.2.

CORAM : D.B.BHOSALE,J.

DATE : 7h September, 2004

PC:

1. Heard the learned counsel for the parties.

2. The learned Adhoc Addl.District Judge, Pune, while dealing with Misc. Appeal against the order passed below Exhibit-5 in RCS no.996 of 2003, passed the following order:

> "1) The lower Court to hold inquiry into the proper valuation of the suit for court fees purpose, as well as for the purpose of the pecuniary jurisdiction and to record its findings and to submit it to this court on or before 4.9.04.
>
> 2) Misc.Civil Appeal No.150/2003 be kept pending till this Court receives the findings on this

point from the lower Court.

3) Certified copy of this order be sent to the lower Court for information and necessary action."

3. It appears that the learned Addl.District Judge, passed the aforesaid order keeping the Misc. Appeal pending for disposal. I have perused the impugned order. The learned Judge, while issuing the directions as aforestated neither considered the provisions of section 11 of the Suit Valuations Act,1887 nor did he record reason as to why the suit was either overvalued or undervalued. In view of this, the learned counsel for the parties agree for the following order:

(i) The order dated 20/08 /04 is quashed and set aside. The appeal court shall decide Misc. Appeal No.150/04 as expeditiously as possible and preferably within a period of two months from the date of receipt of this order.

(ii) The petitioner, through their advocate, are directed to communicate this order to the Appellate Court within two weeks from today.

(iii) Liberty to the respondents to raise issue of proper valuation for jurisdictional purpose before the trial Court.

4. With these directions, the petition is disposed of.

. An authenticated copy of this order may be made available to the parties.

(D.B.BHOSALE, J.)